

REMARKS

I. General

Claims 1-36 were pending in the present application. The present Office Action (mailed March 20, 2007) raises the following issues:

- Claims 1-36 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter;
- Claims 1-22 and 30-36 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,082,527 to Zimmer et al. (hereinafter “*Zimmer*”);
- Claims 1, 16, 30, and 34 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0260936 to Hiray et al. (hereinafter “*Hiray*”); and
- Claims 1, 16, 30, and 34 also stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,904,482 to Reitze et al. (hereinafter “*Reitze*”).

In response, Applicant respectfully traverses the outstanding claim rejections and requests reconsideration and withdrawal of the rejections in light of the remarks presented herein.

II. Claim Amendments

Claim 16 is amended herein. No new matter is added by this amendment. Claim 16 is amended to include the element originally presented in dependent claim 19, which depended from claim 16. Thus, claim 19 is effectively rewritten in independent form as independent claim 16. This amendment is not intended to narrow the scope of claim 16 beyond that originally afforded to claim 19. In view of this amendment, claim 19 is canceled without prejudice.

III. Rejections Under 35 U.S.C. §101

Claims 1-36 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant respectfully disagrees for the reasons discussed below.

35 U.S.C. §101 provides:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Thus, 35 U.S.C. §101 defines four categories of inventions that Congress deemed to be the appropriate subject matter of a patent: processes, machines, manufactures, and compositions of matter. Claims 1-36 are each directed to either a “system” or a “method”, and are thus directed to well-recognized statutory categories of invention under 35 U.S.C. §101.

As the Supreme Court held, Congress chose the expansive language of 35 U.S.C. §101 so as to include “anything under the sun that is made by man.” *Diamond v. Chakrabarty*, 447 U.S. 303, 308-09, 206 USPQ 193, 197 (1980). The Federal Circuit has embraced this perspective:

The plain and unambiguous meaning of section 101 is that any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may be patented if it meets the requirements for patentability set for in Title 35, such as those found in sections 102, 103, and 112. The use of the expansive term “any” in section 101 represents Congress’s intent not to place any restrictions on the subject matter for which a patent may be obtained beyond those specifically recited in section 101 and the other parts of Title 35 ... Thus, it is improper to read into section 101 limitations as to the subject matter that may be patented where the legislative history does not indicate that Congress clearly intended such limitations. *In re Alappat*, 33 F.3d 1526, 1542, 31 USPQ2d 1545, 1556 (Fed. Cir. 1994).

Accordingly, a complete definition of the scope of 35 U.S.C. §101, reflecting Congressional intent, is that any new and useful process, machine, manufacture, or composition of matter (or any new and useful improvement thereof) under the sun that is made by man is the proper subject matter of a patent.

The subject matter courts have found to be outside of, or exceptions to, the four statutory categories of invention is limited to abstract ideas, laws of nature, and natural phenomena. These three judicial exclusions recognize that subject matter that is not a practical application or use of an idea, a law of nature, or a natural phenomena is not patentable. *See, e.g., Mackay Radio & Telegraph Co. v. Radio Corp. of America*, 306 U.S. 86, 94, 40 USPQ 199, 202 (1939) (“While a scientific truth, or the mathematical expression of it, is not patentable invention, a novel and useful structure created with the aid of knowledge of scientific truth may be.”). The courts have held that a claim may not preempt ideas, laws of nature, or natural phenomena. Accordingly, one may not patent every “substantial practical application” of an idea, law of nature, or natural phenomena because such a patent “in practical effect be a patent on the [idea, law of nature or natural phenomena] itself.” *Gottschalk v. Benson*, 409 U.S. 63, 71-72, 175 USPQ 673, 676 (1972).

As a practical matter, the M.P.E.P. explains that, in making a 35 U.S.C. § 101 rejection, “the Examiner must identify the abstraction, law of nature, or natural phenomenon and explain why the claim covers every substantial practical application thereof.” M.P.E.P. § 2106(IV)(C)(2)(3). Only after the Examiner identifies and explains in the record the reasons why a claim is for an abstract idea with no practical application, will the burden shift to the Applicant to either amend the claim or make a showing of why the claim is eligible for patent protection. *See e.g., In re Brana*, 51 F.3d 1560, 1566, 34 USPQ2d 1436, 1441 (Fed. Cir. 1995).

As discussed below, the claims of the present application are directed to one of the four statutory categories expressly recognized by section 101. Further, the Office Action fails to establish that the claims are directed to a judicial exception to the recognized categories. Additionally, even if one or more of the claims are directed to a judicial exception, the claims do not preempt such judicial exception but are instead directed to a practical application thereof.

Claim 1

Claim 1 is directed to a “method”, and thus falls within one of the four statutory categories of section 101 (e.g., “process”). The Office Action fails to establish that the claim is directed to a section 101 judicial exception (i.e., an abstract idea, law of nature, or natural phenomena). The M.P.E.P. provides that “the Examiner must identify the abstraction, law of nature, or natural phenomenon and explain why the claim covers every substantial practical application thereof.” M.P.E.P. § 2106(IV)(C)(2)(3). The Office Action fails to identify any such abstraction, law of nature, or natural phenomenon that claim 1 preempts. The Office Action appears, instead, to conclude that the claim is not limited to a practical application of a judicial exception (i.e., by asserting that it fails to produce a useful, concrete, and tangible result) without first identifying any judicial exception to which the claim is directed. The Office Action merely asserts that the claim is directed to an abstract idea without ever identifying any such abstraction to which the claim is asserted to preempt. Thus, Applicant respectfully submits that the Office Action fails to establish a prima facie case for rejecting claim 1 under 35 U.S.C. §101.

Additionally, claim 1 is not directed to a mere abstract idea. For instance, independent claim 1 recites a method of managing configuration data for a multi-cell computer system, where the method comprises storing configuration data for a given multi-cell computer system to nonvolatile memory of at least one cell of the given multi-cell computer system, and storing a corresponding identifier to the nonvolatile memory that identifies the given multi-cell computer system. It is unclear what abstraction the Examiner believes is encompassed by such method (again, the Office Action fails to identify any such abstraction), as the claim is clearly directed to a method for managing configuration data for a multi-cell computer system where the configuration data and identifier of the multi-cell computer system are stored to nonvolatile memory of at least one cell of the multi-cell computer system (thus providing a management scheme in which configuration data and the identifier are stored locally within the multi-cell computer system).

Further, to the extent that claim 1 is directed to an abstract idea, the claim does not preempt any such abstract idea, but rather the claim is directed to a practical application thereof.

For instance, independent claim 1 provides a useful, concrete, and tangible result. As discussed above, claim 1 is directed to a method for managing configuration data for a multi-cell computer system, which comprises storing the configuration data and identifier of the multi-cell computer system to nonvolatile memory of at least one cell of the multi-cell computer system. Thus, a useful, concrete, and tangible result of having the recited configuration data and identifier stored locally within at least one cell of the multi-cell computer system is produced.

Such storing of the configuration data and identifier provides a “useful result” such as, for example, being useful for managing the configuration of the multi-cell computer system, as described throughout the specification of the present application. Such storing of the configuration data and identifier also provides a tangible result. M.P.E.P. §2106 explains that “the opposite meaning of ‘tangible’ is ‘abstract.’” Such storing does not produce an abstract result, but instead produces the tangible result of having the recited configuration data and identifier stored locally within at least one cell of the multi-cell computer system. Additionally, the storing of the configuration data and identifier also provides a concrete result. M.P.E.P. §2106 explains that usually a question concerning whether a result is concrete “arises when a result cannot be assured.” Here, the claim is recited in such a manner that the result can be assured. The claim unambiguously recites storing the configuration data and identifier to at least one cell of the multi-cell computer system, and thus such result of having the configuration data and identifier stored locally within at least one cell of the multi-cell computer system is concrete.

As discussed above, even if claim 1 is directed to an abstract idea (again, the Office Action fails to identify any such abstract idea that is believed to be preempted by the claim), claim 1 is directed to a practical application in that it produces a useful, concrete, and tangible result. Accordingly, the rejection of claim 1 under 35 U.S.C. §101 should be withdrawn for this further reason.

Claim 11

Claim 11 is also directed to a “method”, and thus falls within one of the four statutory categories of section 101 (e.g., “process”). As with claim 1, the Office Action fails to establish that claim 11 is directed to a section 101 judicial exception (i.e., an abstract idea, law of nature, or natural phenomena). The M.P.E.P. provides that “the Examiner must identify the abstraction, law of nature, or natural phenomenon and explain why the claim covers every substantial practical application thereof.” M.P.E.P. § 2106(IV)(C)(2)(3). The Office Action fails to identify any such abstraction, law of nature, or natural phenomenon that claim 11 preempts. The Office Action appears, instead, to conclude that the claim is not limited to a practical application of a judicial exception (i.e., by asserting that it fails to produce a useful, concrete, and tangible result) without first identifying any judicial exception to which the claim is directed. The Office Action merely asserts that the claim is directed to an abstract idea without ever identifying any such abstraction to which the claim is asserted to preempt. Thus, Applicant respectfully submits that the Office Action fails to establish a prima facie case for rejecting claim 11 under 35 U.S.C. §101.

Additionally, claim 11 is not directed to a mere abstract idea. For instance, independent claim 11 recites a method of managing configuration data locally within a partition of a multi-cell computer system, where the method comprises determining a unique identifier for a given partition, determining if at least one cell in the given partition has an identifier stored to its nonvolatile memory that matches the determined unique identifier, and if determined that at least one cell of the given partition has such a matching identifier, then using configuration data stored to that cell’s nonvolatile memory for configuring the given partition.

It is unclear what abstraction the Examiner believes is encompassed by such method (again, the Office Action fails to identify any such abstraction), as the claim is clearly directed to a method for managing configuration data locally within a partition of a multi-cell computer system where a unique identifier is determined for a given partition and configuration data stored to a cell of the given partition is used for configuring the partition if such cell has an identifier stored thereto that is determined to match the unique identifier for the given partition.

Further, to the extent that claim 11 is directed to an abstract idea, the claim does not preempt any such abstract idea, but rather the claim is directed to a practical application thereof. For instance, independent claim 11 provides a useful, concrete, and tangible result. As discussed above, claim 11 is directed to method for managing configuration data locally within a partition of a multi-cell computer system where a unique identifier is determined for a given partition and configuration data stored to a cell of the given partition is used for configuring the partition if such cell has an identifier stored thereto that is determined to match the unique identifier for the given partition. Thus, a useful, concrete, and tangible result of determining whether proper configuration data for a given partition is stored locally to a cell of the given partition, and using any such determined configuration data for configuring the partition of the multi-cell computer system is produced. Such result is useful, concrete (i.e., repeatable), and tangible (i.e., not abstract).

As discussed above, even if claim 11 is directed to an abstract idea (again, the Office Action fails to identify any such abstract idea that is believed to be preempted by the claim), claim 11 is directed to a practical application in that it produces a useful, concrete, and tangible result. Accordingly, the rejection of claim 11 under 35 U.S.C. §101 should be withdrawn for this further reason.

Claim 16

Claim 16 is also directed to a “method”, and thus falls within one of the four statutory categories of section 101 (e.g., “process”). As with claim 1, the Office Action fails to establish that claim 16 is directed to a section 101 judicial exception (i.e., an abstract idea, law of nature, or natural phenomena). The M.P.E.P. provides that “the Examiner must identify the abstraction, law of nature, or natural phenomenon and explain why the claim covers every substantial practical application thereof.” M.P.E.P. § 2106(IV)(C)(2)(3). The Office Action fails to identify any such abstraction, law of nature, or natural phenomenon that claim 16 preempts. The Office Action appears, instead, to conclude that the claim is not limited to a practical application of a judicial exception (i.e., by asserting that it fails to produce a useful, concrete, and tangible result) without first identifying any judicial exception to which the claim is directed. The Office Action

merely asserts that the claim is directed to an abstract idea without ever identifying any such abstraction to which the claim is asserted to preempt. Thus, Applicant respectfully submits that the Office Action fails to establish a prima facie case for rejecting claim 16 under 35 U.S.C. §101.

Additionally, claim 16 is not directed to a mere abstract idea. For instance, independent claim 16 recites a method comprising storing configuration data for a multi-cell computer system locally to nonvolatile memory of each of a plurality of cells, implementing the plurality of cells in a given multi-cell computer system, and determining if any of the cells possess the proper configuration data corresponding to the given multi-cell system.

It is unclear what abstraction the Examiner believes is encompassed by such method (again, the Office Action fails to identify any such abstraction), as the claim is clearly directed to a method that comprises storing configuration data for a multi-cell computer system locally to nonvolatile memory of each of a plurality of cells, implementing the plurality of cells in a given multi-cell computer system, and determining if any of the cells possess the proper configuration data corresponding to the given multi-cell system. In this manner, configuration data for a multi-cell computer system is stored locally to cells, and when the cells are implemented in a given multi-cell computer system, a determination can be made as to whether any of such cells possess the proper configuration data for the given multi-cell system.

Further, to the extent that claim 16 is directed to an abstract idea, the claim does not preempt any such abstract idea, but rather the claim is directed to a practical application thereof. For instance, independent claim 16 provides a useful, concrete, and tangible result. As discussed above, claim 16 is directed to method comprising storing configuration data for a multi-cell computer system locally to nonvolatile memory of each of a plurality of cells, implementing the plurality of cells in a given multi-cell computer system, and determining if any of the cells possess the proper configuration data corresponding to the given multi-cell system. Thus, a useful, concrete, and tangible result of storing configuration data for a multi-cell computer system locally to cells and determining whether any of such cells possess the proper

configuration data for a given multi-cell system in which they are implemented is produced. Such a result is useful, concrete (i.e., repeatable), and tangible (i.e., not abstract).

As discussed above, even if claim 16 is directed to an abstract idea (again, the Office Action fails to identify any such abstract idea that is believed to be preempted by the claim), claim 16 is directed to a practical application in that it produces a useful, concrete, and tangible result. Accordingly, the rejection of claim 16 under 35 U.S.C. §101 should be withdrawn for this further reason.

Claim 23

Claim 23 is also directed to a “method”, and thus falls within one of the four statutory categories of section 101 (e.g., “process”). As with claim 1, the Office Action fails to establish that claim 23 is directed to a section 101 judicial exception (i.e., an abstract idea, law of nature, or natural phenomena). The M.P.E.P. provides that “the Examiner must identify the abstraction, law of nature, or natural phenomenon and explain why the claim covers every substantial practical application thereof.” M.P.E.P. § 2106(IV)(C)(2)(3). The Office Action fails to identify any such abstraction, law of nature, or natural phenomenon that claim 23 preempts. The Office Action appears, instead, to conclude that the claim is not limited to a practical application of a judicial exception (i.e., by asserting that it fails to produce a useful, concrete, and tangible result) without first identifying any judicial exception to which the claim is directed. The Office Action merely asserts that the claim is directed to an abstract idea without ever identifying any such abstraction to which the claim is asserted to preempt. Thus, Applicant respectfully submits that the Office Action fails to establish a prima facie case for rejecting claim 23 under 35 U.S.C. §101.

Additionally, claim 23 is not directed to a mere abstract idea. Instead, claim 23 is clearly directed to a method of managing configuration data for a multi-cell system having a plurality of cells under the control of a common operating system. The Examiner contends that the claim is nonstatutory because it contains a conditional “if” statement, and alleges that “when none of cell of multi-cell has current configuration data it does not produce a useful, concrete, and tangible

results to form the basis of statutory subject matter under 35 U.S.C. 101.” Page 3 of the Office Action. The Examiner cites no authority whatsoever for alleging that such use of a conditional “if” statement in claim language is impermissible. Further, as discussed below, Applicant respectfully submits that claim 23 produces a useful, concrete, and tangible result, and is thus directed to proper statutory subject matter under 35 U.S.C. §101, even if it is directed to an abstract idea (again, the Examiner fails to identify any such abstraction that the claim is asserted to preempt).

Independent claim 23 recites:

A method of managing configuration data for a multi-cell system having a plurality of cells under the control of a common operating system, the method comprising:

 during a boot-up process of the multi-cell system, a first cell determining whether it has stored in its non-volatile memory current configuration data for the multi-cell system;

 if determined that the first cell has the current configuration data, the first cell providing this stored configuration data to other cells of said multi-cell system and using this stored configuration data for configuring the multi-cell system; and

 if determined that the first cell does not have the current configuration data, determining if any cell of said multi-cell system has stored in its non-volatile memory the current configuration data for the system, and if determined that a cell of said multi-cell system has said current configuration data, then providing this configuration data to other of said cells of said multi-cell system and using this stored configuration data for configuring the multi-cell system.

Thus, claim 23 is directed to a method of managing configuration data for a multi-cell system having a plurality of cells under the control of a common operating system. Claim 23 recites that during a boot-up process of the multi-cell system, a first cell determines whether it has stored in its non-volatile memory current configuration data for the multi-cell system. Claim 23 further recites that if the first cell determines that it has the current configuration data, the first cell provides such stored configuration data to other cells of the multi-cell system and uses this stored configuration data for configuring the multi-cell system. Thus, in the event that the first cell possesses the current configuration data for the multi-cell system, such configuration data is provided to other cells and used for configuring the multi-cell system.

Claim 23 further recites that if the first cell determines that it does not have the current configuration data, the method then determines if any cell of the multi-cell system has stored in its non-volatile memory the current configuration data for the system. Claim 23 goes on to recite that if determined that a cell of the multi-cell system has the current configuration data, then this configuration data is provided to other of the cells of the multi-cell system and used for configuring the multi-cell system. Thus, in the event that the first cell does not possess the current configuration data for the multi-cell system, a determination is made whether any other cell possesses the current configuration data, and if so, then such configuration data is provided to other cells and used for configuring the multi-cell system.

Thus, claim 23 provides a useful, concrete, and tangible result in that it determines whether current configuration data for a multi-cell computer system is possessed locally within a cell of the multi-cell computer system. Accordingly, even though in some instances, the recited “if” conditions of claim 23 might not be satisfied, the claim still produces a useful, concrete, and tangible result in that it determines whether current configuration data for a multi-cell computer system is possessed locally within a cell of the multi-cell computer system. Such a determination is useful in that it enables any such current configuration data that is stored locally to be used for configuring the multi-cell system, while enabling the avoidance of using of non-current configuration data that might be stored locally. Such a determination provides a concrete result as it is repeatable, *see* M.P.E.P. §2106. And, such a determination provides a tangible result as such result is not abstract, *see* M.P.E.P. §2106.

As discussed above, even if claim 23 is directed to an abstract idea (again, the Office Action fails to identify any such abstract idea that is believed to be preempted by the claim), claim 23 is directed to a practical application in that it produces a useful, concrete, and tangible result. Accordingly, the rejection of claim 23 under 35 U.S.C. §101 should be withdrawn for this further reason.

Claim 26

Claim 26 is also directed to a “method”, and thus falls within one of the four statutory categories of section 101 (e.g., “process”). As with claim 1, the Office Action fails to establish that claim 26 is directed to a section 101 judicial exception (i.e., an abstract idea, law of nature, or natural phenomena). The M.P.E.P. provides that “the Examiner must identify the abstraction, law of nature, or natural phenomenon and explain why the claim covers every substantial practical application thereof.” M.P.E.P. § 2106(IV)(C)(2)(3). The Office Action fails to identify any such abstraction, law of nature, or natural phenomenon that claim 26 preempts. The Office Action appears, instead, to conclude that the claim is not limited to a practical application of a judicial exception (i.e., by asserting that it fails to produce a useful, concrete, and tangible result) without first identifying any judicial exception to which the claim is directed. The Office Action merely asserts that the claim is directed to an abstract idea without ever identifying any such abstraction to which the claim is asserted to preempt. Thus, Applicant respectfully submits that the Office Action fails to establish a prima facie case for rejecting claim 26 under 35 U.S.C. §101.

Additionally, claim 26 is not directed to a mere abstract idea. Instead, claim 26 is clearly directed to a method that comprises, during a first boot-up process of a multi-cell partition, distributing configuration data for the multi-cell partition to each of the cells, wherein the configuration data is stored to non-volatile memory in each of the cells, and storing to the non-volatile memory of each cell a corresponding identifier that identifies that the configuration data corresponds to the multi-cell partition. The method further comprises, during a second boot-up process of the multi-cell partition, a first one of the cells included therein determining whether a unique identifier for the multi-cell partition matches with the first cell’s stored identifier, wherein if the first cell’s stored identifier matches the unique identifier of the multi-cell partition, then determining that the configuration data stored to non-volatile memory of said first cell is the current configuration data for configuring the multi-cell partition. It is unclear what abstraction such a method is asserted as preempting, and again the Examiner has failed to identify any such abstraction.

The Examiner contends that the claim is nonstatutory because it contains a conditional “if” statement, and alleges that “when none of cell of multi-cell has current configuration data it

does not produce a useful, concrete, and tangible results to form the basis of statutory subject matter under 35 U.S.C. 101.” Page 3 of the Office Action. The Examiner cites no authority whatsoever for alleging that such use of a conditional “if” statement in claim language is impermissible. Further, as discussed below, Applicant respectfully submits that claim 26 produces a useful, concrete, and tangible result, and is thus directed to proper statutory subject matter under 35 U.S.C. §101, even if it is directed to an abstract idea (again, the Examiner fails to identify any such abstraction that the claim is asserted to preempt).

Independent claim 26 recites:

A method comprising:
during a first boot-up process of a multi-cell partition, distributing configuration data for the multi-cell partition to each of the cells of said multi-cell partition, wherein the configuration data is stored to non-volatile memory in each of the cells, and storing to said non-volatile memory of each cell a corresponding identifier that identifies that the configuration data corresponds to said multi-cell partition; and
during a second boot-up process of said multi-cell partition, a first one of the cells included therein determining whether a unique identifier for the multi-cell partition matches with the first cell's stored identifier, wherein if the first cell's stored identifier matches the unique identifier of the multi-cell partition, then determining that the configuration data stored to non-volatile memory of said first cell is the current configuration data for configuring the multi-cell partition.

Thus, claim 26 is directed to a method in which configuration data is distributed to each cell of a multi-cell partition during a first boot-up process, and an identifier is stored to each cell that identifies that the configuration data corresponds to the multi-cell partition. The method further recites that during a second boot-up process of the multi-cell partition, a first one of the cells included in the multi-cell partition determines whether a unique identifier for the multi-cell partition matches with the first cell's stored identifier. In the event that the first cell's stored identifier matches the unique identifier of the multi-cell partition, the method determines that the configuration data stored to non-volatile memory of such first cell is the current configuration data for configuring the multi-cell partition.

Thus, claim 26 provides a useful, concrete, and tangible result in that it stores to each cell of a multi-cell partition configuration data and identifier of the multi-cell partition to which the configuration data corresponds, and further determines whether the identifier for the partition matches a first cell's stored identifier, wherein if it matches the configuration data stored to such first cell can be used for configuring the multi-cell partition. Accordingly, even though in some instances, the recited "if" condition of claim 26 might not be satisfied (i.e., the stored identifier of the first cell fails to match the unique identifier of the multi-cell partition), the claim still produces a useful, concrete, and tangible result in that it stores configuration data and an identifier locally to each cell of a multi-cell partition and determines whether proper

configuration data for a partition (for which an identifier matches the unique identifier of the partition) is possessed locally within a first cell of the multi-cell partition. Such a determination is useful in that it enables any such configuration data that is stored locally in a cell of the partition to be used for configuring the multi-cell partition, while enabling the avoidance of using improper configuration data (that is not for the partition) that might be stored locally to such cell. Such a determination provides a concrete result as it is repeatable, *see* M.P.E.P. §2106. And, such a determination provides a tangible result as such result is not abstract, *see* M.P.E.P. §2106.

As discussed above, even if claim 26 is directed to an abstract idea (again, the Office Action fails to identify any such abstract idea that is believed to be preempted by the claim), claim 26 is directed to a practical application in that it produces a useful, concrete, and tangible result. Accordingly, the rejection of claim 26 under 35 U.S.C. §101 should be withdrawn for this further reason.

Claim 30

Claim 30 is directed to a “system”, and thus falls within one of the four statutory categories of section 101 (e.g., “machine”). As with claim 1, the Office Action fails to establish that claim 30 is directed to a section 101 judicial exception (i.e., an abstract idea, law of nature, or natural phenomena). The M.P.E.P. provides that “the Examiner must identify the abstraction, law of nature, or natural phenomenon and explain why the claim covers every substantial practical application thereof.” M.P.E.P. § 2106(IV)(C)(2)(3). The Office Action fails to identify any such abstraction, law of nature, or natural phenomenon that claim 30 preempts. The Office Action appears, instead, to conclude that the claim is not limited to a practical application of a judicial exception (i.e., by asserting that it fails to produce a useful, concrete, and tangible result) without first identifying any judicial exception to which the claim is directed. The Office Action merely asserts that the claim is directed to an abstract idea without ever identifying any such abstraction to which the claim is asserted to preempt. Thus, Applicant respectfully submits that the Office Action fails to establish a *prima facie* case for rejecting claim 30 under 35 U.S.C. §101.

Additionally, claim 30 is not directed to a mere abstract idea. For instance, independent claim 30 recites a system that comprises “a plurality of cells in a multi-cell system, wherein multiple ones of said cells include non-volatile memory to which are stored configuration data and a corresponding identifier that uniquely identifies a given multi-cell partition to which the cell’s respective stored configuration data corresponds.” It is unclear what abstraction the Examiner believes is encompassed by such a well-recognized category of subject matter as a system that comprises a plurality of cells in a multi-cell system (again, the Office Action fails to identify any such abstraction). Accordingly, the rejection of claim 30 under 35 U.S.C. §101 should be withdrawn for this further reason.

Claim 34

Claim 34 is directed to a “system”, and thus falls within one of the four statutory categories of section 101 (e.g., “machine”). As with claim 1, the Office Action fails to establish that claim 34 is directed to a section 101 judicial exception (i.e., an abstract idea, law of nature, or natural phenomena). The M.P.E.P. provides that “the Examiner must identify the abstraction, law of nature, or natural phenomenon and explain why the claim covers every substantial practical application thereof.” M.P.E.P. § 2106(IV)(C)(2)(3). The Office Action fails to identify any such abstraction, law of nature, or natural phenomenon that claim 34 preempts. The Office Action appears, instead, to conclude that the claim is not limited to a practical application of a judicial exception (i.e., by asserting that it fails to produce a useful, concrete, and tangible result) without first identifying any judicial exception to which the claim is directed. The Office Action merely asserts that the claim is directed to an abstract idea without ever identifying any such abstraction to which the claim is asserted to preempt. Thus, Applicant respectfully submits that the Office Action fails to establish a prima facie case for rejecting claim 34 under 35 U.S.C. §101.

Additionally, claim 34 is not directed to a mere abstract idea. For instance, independent claim 34 recites a system that comprises:

non-volatile storage means, on each of a plurality of cells of a particular multi-cell partition, for storing configuration data;

non-volatile storage means, on each of said plurality of cells, for storing an identifier that uniquely identifies a multi-cell system to which the cell's respective stored configuration data relates; and

means, on at least one of said plurality of cells, for determining if said configuration data stored to any of said plurality of cells relates to said particular multi-cell partition.

It is unclear what abstraction the Examiner believes is encompassed by such a well-recognized category of subject matter as a system that comprises such elements as non-volatile storage means on each of a plurality of cells of a particular multi-cell partition and the recited means for determining. Again, the Office Action fails to identify any such abstraction. Accordingly, the rejection of claim 34 under 35 U.S.C. §101 should be withdrawn for this further reason.

Dependent Claims

The dependent claims are likewise directed to proper statutory subject matter under 35 U.S.C. §101 for the reasons discussed above for the respective independent claims from which they depend. Therefore, the rejections of the dependent claims should also be withdrawn.

IV. Rejections Under 35 U.S.C. §102 over *Zimmer*

Claims 1-22 and 30-36 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Zimmer*. *Office Action* at p. 4. Applicant traverses the rejection and asserts that these claims are allowable, at least, for the reasons stated below.

To anticipate a claim under 35 U.S.C. § 102, a single reference must teach each and every element of the claim. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). In fact, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Furthermore, for a reference to be anticipatory, "[its] elements must be arranged as required by the claim." *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990), *cited in* M.P.E.P. § 2131. Applicant respectfully submits that *Zimmer* fails to teach all elements of claims 1-22 and 30-36 for the reasons provided below.

Independent Claim 1

Independent claim 1 recites:

A method of managing configuration data for a multi-cell computer system, the method comprising:
storing configuration data for a given multi-cell computer system to nonvolatile memory of at least one cell of said given multi-cell computer system;
and
storing a corresponding identifier to said nonvolatile memory of said at least one cell that uniquely identifies the given multi-cell computer system to which the stored configuration data corresponds. (Emphasis added).

Zimmer does not teach an identifier that “identifies the given multi-cell computer system” (emphasis added). The Office Action asserts on page 4 thereof that system 300 of Figure 3 of *Zimmer* provides a multi-cell computer system. However, *Zimmer* does not disclose an identifier that identifies the given multi-cell computer system (i.e., identifying system 300). Rather, *Zimmer* appears to disclose an identifier of an individual blade of a blade server. Assuming, for instance, that the blades of *Zimmer* could be considered cells of the multi-cell computer system, *Zimmer* clearly shows that the identifier is a machine ID, such as a media access control (“MAC”) address, which allows the boot server to know which cell is to be “repurposed”. *Zimmer*, col. 5, lines 54-61. Thus the identifier identifies the individual cell, not the multi-cell system (such as system 300 of Figure 3 of *Zimmer*).

Accordingly, *Zimmer* fails to teach at least the above-identified element of claim 1, and therefore the rejection of claim 1 should be withdrawn.

Independent claim 11

Independent claim 11 recites in part “determining a unique identifier for a given partition of the multi-cell computer system” and “determining if at least one cell in said given partition has an identifier stored to its respective nonvolatile memory that matches said determined unique identifier for said given partition”. *Zimmer* fails to teach at least the above-identified elements of claim 11. For instance, *Zimmer* fails to teach a unique identifier of a partition of a multi-cell computer system.

Accordingly, *Zimmer* fails to teach at least the above-identified element of claim 11, and therefore the rejection of claim 11 should be withdrawn.

Independent Claim 16

Independent Claim 16, as amended, recites:

A method comprising:
storing configuration data for a multi-cell computer system locally to nonvolatile memory of each of a plurality of cells, wherein said storing configuration data comprises storing corresponding identifier data that uniquely identifies a multi-cell system to which the configuration data corresponds;
implementing the plurality of cells in a given multi-cell system; and
determining if any of said cells possess the proper configuration data corresponding to the given multi-cell system. (Emphasis added).

Zimmer fails to teach at least the above-emphasized element of claim 16. For instance, *Zimmer* does not teach storing identifier data locally to each of a plurality of cells of a multi-cell computer system that uniquely identifies a multi-cell system. The Office Action appears to assert that system 300 of Figure 3 of *Zimmer* provides a multi-cell system. However, *Zimmer* does not teach storing to a plurality of the cells identifier data that uniquely identifies the multi-cell system 300. Rather, *Zimmer* appears to disclose storing an identifier of an individual blade of a blade server. Assuming that the blade of *Zimmer* is considered a cell of the multi-cell computer system (e.g., multi-cell system 300 of Figure 3 of *Zimmer*), *Zimmer* clearly shows that the identifier is a machine ID, such as a media access control (“MAC”) address, which allows the boot server to know which cell is to be “repurposed”. *Zimmer*, col. 5, lines 54-61. Thus the identifier identifies the individual cell, not the multi-cell system.

Accordingly, *Zimmer* fails to teach at least the above-identified element of claim 16, and therefore the rejection of claim 16 should be withdrawn.

Independent Claim 30

Independent claim 30 recites:

A system comprising:
a plurality of cells in a multi-cell system, wherein multiple ones of said

cells include non-volatile memory to which are stored configuration data and a corresponding identifier that uniquely identifies a given multi-cell partition to which the cell's respective stored configuration data corresponds. (Emphasis added).

Zimmer fails to teach at least the above-emphasized element of claim 30. For instance, *Zimmer* does not teach that multiple ones of cells in a multi-cell system have stored to their non-volatile memory a corresponding identifier that uniquely identifies a given multi-cell partition. *Zimmer* does not in any way teach the use of partitions. While *Zimmer* appears to disclose an identifier of an individual blade of a blade server, assuming that the blade of *Zimmer* is considered a cell, *Zimmer* clearly shows that the identifier is a machine ID, such as a media access control ("MAC") address, which allows the boot server to know which partition is to be "repurposed". *Zimmer*, col. 5, lines 54-61. Thus the identifier identifies the individual cell, not a multi-cell partition.

Accordingly, *Zimmer* fails to teach at least the above-identified element of claim 30, and therefore the rejection of claim 30 should be withdrawn.

Independent claim 34

Independent claim 34 recites:

A system comprising:

non-volatile storage means, on each of a plurality of cells of a particular multi-cell partition, for storing configuration data;

non-volatile storage means, on each of said plurality of cells, for storing an identifier that uniquely identifies a multi-cell system to which the cell's respective stored configuration data relates; and

means, on at least one of said plurality of cells, for determining if said configuration data stored to any of said plurality of cells relates to said particular multi-cell partition. (Emphasis added).

Zimmer fails to teach at least the above-emphasized element of claim 34. *Zimmer* does not teach non-volatile storage means on each of a plurality of cells of a multi-cell partition for storing an identifier that uniquely identifies a multi-cell system. Rather, *Zimmer* appears to disclose an identifier of an individual blade of a blade server. Assuming that the blade of *Zimmer* is considered a cell of the multi-cell computer system (e.g., computer system 300 of

Figure 3 of *Zimmer*), *Zimmer* clearly shows that the identifier is a machine ID, such as a media access control (“MAC”) address, which allows the boot server to know which cell is to be “repurposed”. *Zimmer*, col. 5, lines 54-61. Thus, the identifier identifies the individual cell, not the multi-cell system.

Accordingly, *Zimmer* fails to teach at least the above-identified element of claim 34, and therefore the rejection of claim 34 should be withdrawn.

Dependent Claims

Claims 2-10, 12-15, 17-22, 31-33, and 35-36 each depend either directly or indirectly from one of independent claims 1, 11, 16, 30, and 34. Since Applicant believes that claims 1, 11, 16, 30, and 34 are of patentable merit (see discussion above), it follows *a fortiori* that these dependent claims must also be allowable because they carry with them all of the limitations of the claims from which they depend in addition to their own supplied limitations.

V. Rejections Under 35 U.S.C. §102 over *Hiray*

Claims 1, 16, 30, and 34 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Hiray*. *Office Action* at p. 9. Applicant traverses the rejection and asserts that these claims are not anticipated by *Hiray* because *Hiray* fails to teach all elements of the claims for the reasons discussed below.

Independent Claim 1

Independent claim 1 recites, in part, “storing a corresponding identifier to said nonvolatile memory of said at least one cell that uniquely identifies the given multi-cell computer system to which the stored configuration data corresponds.” *Hiray* does not teach storing to nonvolatile memory of a cell of a multi-cell computer system an identifier that “identifies the given multi-cell computer system”. In one embodiment, *Hiray* discloses use of a stock keeping unit (“SKU”) which is mapped to corresponding configuration information. *Hiray*, paragraph [0011]. However, the SKUs do not identify a multi-cell computer system, but instead identify a particular blade. *Id.* Accordingly, at best such a SKU identifies an individual cell of a multi-cell system, rather than the multi-cell system.

Accordingly, *Hiray* fails to teach at least the above-identified element of claim 1, and therefore the rejection of claim 1 should be withdrawn.

Independent Claim 16

Independent Claim 16 recites, in part, “storing configuration data for a multi-cell computer system locally to nonvolatile memory of each of a plurality of cells, wherein said storing configuration data comprises storing corresponding identifier data that uniquely identifies a multi-cell system to which the configuration data corresponds” (emphasis added). *Hiray* fails to disclose at least this element of claim 16. For instance, *Hiray* does not teach storing to nonvolatile memory of each of a plurality of cells of a multi-cell computer system identifier data that uniquely identifies a multi-cell system. In one embodiment, *Hiray* appears to disclose use of a stock keeping unit (“SKU”) which is mapped to corresponding configuration information.

Hiray, paragraph [0011]. However, the SKUs do not identify a multi-cell computer system, but rather identify an individual blade. *Id.*

Accordingly, *Hiray* fails to teach at least the above-identified element of claim 16, and therefore the rejection of claim 16 should be withdrawn.

Independent Claim 30

Independent claim 30 recites “a plurality of cells in a multi-cell system, wherein multiple ones of said cells include non-volatile memory to which are stored configuration data and a corresponding identifier that uniquely identifies a given multi-cell partition to which the cell’s respective stored configuration data corresponds” (emphasis added). *Hiray* fails to teach at least the above-emphasized element of claim 30. For instance, *Hiray* does not teach that multiple cells include non-nonvolatile memory to which an identifier that uniquely identifies a given multi-cell partition is stored. *Hiray* does not in any way teach the use of partitions. In one embodiment, *Hiray* appears to disclose use of a stock keeping unit (“SKU”) which is mapped to corresponding configuration information. *Hiray*, paragraph [0011]. However, the SKUs do not identify a multi cell partition, but rather identify an individual blade. *Id.*

Accordingly, *Hiray* fails to teach at least the above-identified element of claim 30, and therefore the rejection of claim 30 should be withdrawn.

Independent claim 34

Independent claim 34 recites, in part, “non-volatile storage means, on each of said plurality of cells, for storing an identifier that uniquely identifies a multi-cell system to which the cell’s respective stored configuration data relates”. *Hiray* fails to disclose at least this element of claim 34. *Hiray* does not teach a non-volatile storage means on each of a plurality of cells for storing an identifier that uniquely identifies a multi-cell system. In one embodiment, *Hiray* appears to disclose use of a stock keeping unit (“SKU”) which is mapped to corresponding configuration information. *Hiray*, paragraph [0011]. However, the SKUs do not identify a multi-cell computer system, but instead identify an individual blade. *Id.*

Accordingly, *Hiray* fails to teach at least the above-identified element of claim 34, and therefore the rejection of claim 34 should be withdrawn.

VI. Rejections Under 35 U.S.C. §102 over *Reitze*

Claims 1, 16, 30, and 34 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Reitze*. *Office Action* at p. 9. Applicant traverses the rejection and asserts that these claims are not anticipated by *Reitze* because *Reitze* fails to teach all elements of the claims for the reasons discussed below.

Independent Claim 1

Independent claim 1 recites, in part, “storing a corresponding identifier to said nonvolatile memory of said at least one cell that uniquely identifies the given multi-cell computer system to which the stored configuration data corresponds.” *Reitze* fails to teach at least this element of claim 1.

Reitze does not teach storing to nonvolatile memory of a cell an identifier that uniquely identifies a multi-cell computer system. The Examiner does not detail how *Reitze* anticipates this claim. Two types of identifiers appear to be described in *Reitze*. *Reitze*, col. 6, lines 54-67, col. 7, lines 1-17. The first is a server blade identifier. *Id.* Such a server blade is a single blade of a multiple blade system. Thus, this identifier does not pertain to a given multi-cell computer system, but rather to an individual cell. The second identifier is to an operating system. *Id.* Here again, the identifier is not identifying a given multi-cell computer system but rather identifies the operating system which will be loaded onto an individual blade server. Hence, neither identifier of *Reitze* identifies a multi-cell computer system.

Accordingly, *Reitze* fails to teach at least the above-identified element of claim 1, and therefore the rejection of claim 1 should be withdrawn.

Independent Claim 16

Independent Claim 16, as amended, recites in part “storing configuration data for a multi-cell computer system locally to nonvolatile memory of each of a plurality of cells, wherein said storing configuration data comprises storing corresponding identifier data that uniquely identifies a multi-cell system to which the configuration data corresponds” (emphasis added). *Reitze* fails

to disclose at least this element of claim 16. As discussed above, *Reitze* appears to describe two types of identifiers. *Reitze*, col. 6, lines 54-67, col. 7, lines 1-17. The first is a server blade identifier. *Id.* The second identifier is of an operating system that will be loaded onto the individual blade server. *Id.* Hence neither identifier of *Reitze* identifies a multi-cell system.

Accordingly, *Reitze* fails to teach at least the above-identified element of claim 16, and therefore the rejection of claim 16 should be withdrawn.

Independent Claim 30

Independent Claim 30 recites “a plurality of cells in a multi-cell system, wherein multiple ones of said cells include non-volatile memory to which are stored configuration data and a corresponding identifier that uniquely identifies a given multi-cell partition to which the cell’s respective stored configuration data corresponds” (emphasis added). *Reitze* fails to teach at least the above-emphasized element of claim 30. *Reitze* does not in any way teach the use of partitions. Two types of identifiers appear to be described in *Reitze*. *Reitze*, col. 6, lines 54-67, col. 7, lines 1-17. The first is a server blade identifier. *Id.* The second identifier is of an operating system that will be loaded onto an individual blade server. *Id.* Hence neither identifier of *Reitze* identifies a multi-cell partition.

Accordingly, *Reitze* fails to teach at least the above-identified element of claim 30, and therefore the rejection of claim 30 should be withdrawn.

Independent claim 34

Independent Claim 34 recites, in part, “non-volatile storage means, on each of said plurality of cells, for storing an identifier that uniquely identifies a multi-cell system to which the cell’s respective stored configuration data relates” (emphasis added). *Reitze* fails to teach at least this element of claim 34. Two types of identifiers appear to be described in *Reitze*. *Reitze*, col. 6, lines 54-67, col. 7, lines 1-17. The first is a server blade identifier. *Id.* The second identifier is of an operating system that will be loaded onto an individual blade server. *Id.* Hence, neither identifier in *Reitze* identifies a multi-cell system.

Accordingly, *Reitze* fails to teach at least the above-identified element of claim 34, and therefore the rejection of claim 34 should be withdrawn.

VII. Conclusion

In view of the above, Applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-2025, under Order No. 200313407-1 from which the undersigned is authorized to draw.

Respectfully submitted,

By: 

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